

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ACUFLOOR, LLC,

Plaintiff,

v.

Case No.: 2:21-cv-802-SPC-KCD

EVENTILE, INC. and FORPAC,
LLC,

Defendants.

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OPINION AND ORDER

Before the Court are Defendant Forpac LLC's Renewed Motion for Fees and Sanctions (Doc. 113), Defendant Eventile, Inc.'s Joinder in Forpac, LLC's Motion and Renewed Motion for Fees and Sanctions and Eventile's Additional Motion for Fees and Sanctions (Doc. 115), Defendant Eventile's Motion for Leave to File Reply in Further Support of Defendant's Motion for Fees and Sanctions (Doc. 122) and Plaintiff Acufloor's Response in Opposition to the Motion to File Reply (Doc. 123).

This is a patent case. Following the Court's claim construction order, the parties jointly stipulated to dismissal of Plaintiff Acufloor, LLC's claims and entry of judgment for Defendants. Defendants moved for sanctions and attorneys' fees, and Acufloor filed a notice of appeal. District courts retain jurisdiction to rule on motions for attorneys' fees during an appeal. But, as

explained by the Advisory Committee Notes to Rule 54(d)(2), “If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved.” Fed. R. Civ. P. 54, Advisory Committee Notes (1993 Amendments).

The outcome of Acufloor’s appeal may affect Defendants’ entitlement to attorneys’ fees, and the appeal will likely affect the amount at stake. Accordingly, it is now

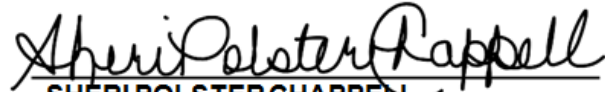
ORDERED:

(1) Defendant Forpac LLC’s Renewed Motion for Fees and Sanctions (Doc. 113), and Defendant Eventile, Inc.’s Joinder in Forpac, LLC’s Motion and Renewed Motion for Fees and Sanctions and Eventile’s Additional Motion for Fees and Sanctions (Doc. 115) are **DENIED without prejudice.**

(2) The parties may move for attorneys’ fees and/or sanctions within **21 days** after resolution of Acufloor’s appeal.

(3) Defendant Eventile’s Motion for Leave to File Reply in Further Support of Defendant’s Motion for Fees and Sanctions (Doc. 122) and Plaintiff Acufloor’s Response to the Motion (Doc. 123) are **DENIED as moot.**

DONE and **ORDERED** in Fort Myers, Florida this 19th day of May,
2023.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record